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Message Text

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70
ORIGIN SCS-03

INFO OCT-01 ARA-06 ISO-00 SCA-01 SNM-02 L-02 DEAE-00

JUSE-00 SY-05 SSO-00 H-02 SS-15 NSC-05 NSCE-00 FBIE-00

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DRAFTED BY SCA:SCS:JFHUGHES:SAS
APPROVED BY SCA:TMRECKNAGEL
SCS - WPCHASE
ARA/MEX - JDREYFUSS (DRAFT)
S/NM - DERNEST (DRAFT)
L/SCA - HRGAITHER (DRAFT)
DESIRED DISTRIBUTION
DEA
---------- 029154
O 072305Z APR 75
FM SECSTATE WASHDC
TO AMEMBASSY MEXICO IMMEDIATE
AMCONSUL MONTERREY PRIORITY

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E.O. 11652:N/A
TAGS: CASC, MX
SUBJECT:W/W (ARRESTS) PLANTED EVIDENCE AND OTHER IRREGU-
LARITIES IN JUDICIAL PROCEDURE
REF: (A) MONTERREY 170; (B) MONTERREY 209; (C) MONTERREY
211; (D) STATE 70780 AND (E) MONTERREY 222

1. THE DEPARTMENT CANNOT AGREE, EITHER IN PRINCIPLE OR WITH
REGARD TO PRACTICAL APPLICATION, TO THE VIEWS AND CONCLU-
SIONS SET FORTH IN MONTERREY'S REFTEL (E). NEITHER THIS
DEPARTMENT NOR ANY AGENCY OF THE USG RPT USG CAN CONDONE
ANY ACT WHICH IS IN DISTINCT VIOLATION OF INTERNATIONALLY
RECOGNIZED STANDARDS OF JUDICIAL PROCEDURE. WHATEVER THE
CIRCUMSTANCES, THE PLANTING OF FRAUDULENT EVIDENCE, WHETHER
OR NOT A CHARGE RESULTS THEREFROM, IS A WHOLLY ILLEGAL ACT.
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2. ALTHOUGH IN CASE OF JOEL AND DIANE LONG NO CHARGE HAS BEEN OR APPARENTLY WILL BE LAID ON THE BASIS OF THE PLANTED EVIDENCE, THE VERY FACT OF THE INCIDENT CAN SERVE SERIOUSLY TO UNDERMINE THE CREDITABILITY OF EVIDENCE PRESENTED BY THE PROSECUTION IN EVERY CASE INVOLVING AN AMERICAN CITIZEN ARRESTED IN MEXICO.

3. THE DEPARTMENT TRUSTS THAT THIS WAS AN ISOLATED INCIDENT AND DOES NOT RPT NOT REPRESENT "NORMAL" MEXICAN PROCEDURE. HOWEVER, THE STATUS OF AMERICAN CITIZENS IMPRISONED IN MEXICO LONG AGO MOVED OUT OF THE PURELY LEGAL AND INTO A

MORE EMOTION CHARGED, PUBLIC FORUM. THUS EVEN AN ISOLATED INCIDENT CAN BE BLOWN OUT OF ALL PROPORTION AND, IF OVER-LOOKED COULD CREATE SERIOUS DIFFICULTIES FOR THE NARCOTICS PROGRAM IN MEXICO.

4. MORE IMPORTANTLY, THE PRINCIPLE INVOLVED IN THE ISSUE CANNOT BE IGNORED. A PRIMARY FUNCTION OF THE FOREIGN SERVICE IS TO INSURE THAT AMERICAN CITIZENS ARRESTED ABROAD RECEIVE TREATMENT WHICH MEETS GENERALLY INTER-NATIONALLY ACCEPTED STANDARDS OF DUE PROCESS. IN THIS INSTANCE, ALTHOUGH PLANTED EVIDENCE APPARENTLY WAS USED "ONLY" AS AN INTERROGATION TECHNIQUE IT COULD HARDLY BE CONSIDERED AS MEETING ANY RECOGNIZED DEFINITION OF "DUE PROCESS". MOREOVER, THE PRESIDENT IS CHARGED UNDER 22 USC 1732 WITH SPECIFIC RESPONSIBILITIES TO FORTHWITH DEMAND THE RELEASE OF ANY AMERICAN CITIZEN UNJUSTLY DEPRIVED OF HIS LIBERTY BY OR UNDER THE AUTHORITY OF ANY FOREIGN GOVERNMENT. JOEL AND DIANE LONG CANNOT BE CONSIDERED AT THIS TIME AS BEING "UNJUSTLY DEPRIVED OF THEIR LIBERTY" BUT ANY IRREGULARITY IN THE JUDICIAL PROCEDURE AGAINST THEM COULD, AT SOME LATER DATE, BE USED TO CLOUD THE CASE. MOREOVER FAILURE TO TAKE CORRECTIVE ACTION WHEN CONFRONTED BY INCIDENT OF IRREGULARITY COULD EASILY BE CONSTRUED AS A FAILURE BY THE DEPARTMENT AND POSTS CONCERNED TO TAKE PROPER ACTION IN ACCORDANCE WITH 22 USC 1732. (STARK RESOLUTION MAKES THAT SPECIFIC CITATION).

5. THE DEPARTMENT APPRECIATES THE PRACTICAL DIFFICULTIES
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SET FORTH IN PARAGRAPH 5 OF MONTERREY REFTEL (E), IF NOT THE CONCLUSIONS DRAWN THEREFROM. WE HAVE NO DESIRE TO EMBARRASS OR "MAKE AN ENEMY" OF SOTO AND OTHER MEXICAN

OFFICIALS IN TORREON OR ELSEWHERE. THEY NEED NOT BE IDENTIFIED AS THOSE RESPONSIBLE BUT THE INCIDENT CANNOT RPT CANNOT BE IGNORED.

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6. THE EMBASSY IS THEREFORE REQUESTED, IN CONSULTATION WITH MONTERREY, TO CONSIDER THE MOST APPROPRIATE MEANS, FORMAL OR INFORMAL, FOR BRINGING THIS MATTER TO THE ATTENTION OF THE MEXICAN AUTHORITIES WITH A VIEW TO EFFECTIVELY INSURING THAT SIMILAR INCIDENTS DO NOT OCCUR IN THE FUTURE.

7. IN THIS REGARD, THE EMBASSY SHOULD ALSO CONSIDER THE GAMSS-RIFE CASE (MONTERREY REFTELS (A) AND (C). THAT CASE IS TOTALLY UNRELATED TO LONG BUT ALSO INVOLVES CLEAR EVIDENCE OF DUE PROCESS IRREGULARITIES BY MEXICAN POLICE TO TRY EXTORT ARRESTEES. HOWEVER, IN GAMSS-RIFE CASE, MEXICAN AUTHORITIES APPEAR BE INITIATING CORRECTIVE ACTION. THE DEPARTMENT WOULD APPRECIATE HAVING THE EMBASSY'S ACTION PROPOSALS AS SOON AS POSSIBLE.

8. THE EMBASSY IS FURTHER REQUESTED IN CONSULTATION WITH CONSTITUENT POSTS TO REVIEW ON A NATIONWIDE BASIS ANY CASE IN WHICH THERE IS A REASONABLE POSSIBILITY OF "TAINTED EVIDENCE" OR PROCEDURAL IRREGULARITY.REPORT TO THE DEPARTMENT SOONEST IDENTITY OF ANY SUCH CASE. INGERSOLL

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